

The 17th July, 1981

No. 9(1)-81-8Lab/8000.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Panipat Co-operative Sugar Mills, Panipat.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT
HARYANA, ROHTAK

Reference No. 231 of 79

between

SHRI VAKIL MISHRA, WORKMAN AND THE MANAGEMENT OF M/S THE PANIPAT,
CO-OPERATIVE SUGAR MILLS, PANIPAT

Present:

Shri Gian Chand. for the workman.

Shri R. S. Malik. for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/CNL/61-79/57552, dated 20th December, 1979 under section 10 (i) (c) of the Industrial Disputes Act, for adjudication of the dispute existing between Shri Vakil Mishra, workman and the management of M/s The Panipat Co-operative Sugar Mills, Panipat. The term of the reference was :—

“Whether the termination of services of Shri Vakil Mishra was justified and in order? If not, to what relief is he entitled?”

On the receipt of the order of reference notices as usual were sent to the parties. The parties appeared and filed their respective pleadings and the only issue arising out of their pleadings is as under :—

1. Whether the termination of services of the workman was justified and in order? If not, to what relief is he entitled?”

The management examined Mr. B. B. Mann Senior Time-keeper as MW-1 and closed his case. The workman examined himself as his witness and closed his case. I heard the learned representatives of the parties and decide the issue as under :—

Exhibit No. 1.—MW-1 has stated that the workman was a daily rated Kulli and he was called to work off and on according to the demand. He further stated that as per the attendance record the workman worked for 90 days during the season 72-73, 80 days in 73-74 season, 29 days in 74-75 season, 97 days in 75-76 season, 45 days in 76-77 season, 163 days in 77-78 season and 112 days in 78-79 season. He has also stated that the workman did not work in the boiler particularly for whole of the above said period and he was not paid retaining allowance during off season which was admissible to regular employees. The witness has given out in his cross-examination that the season 77-78 started on 13th November, 1977 and ended on 4th June 1978. The season 78-79 commenced on 22nd November, 1978 and ended on 17th April 1979. The witness could not say whether the workman was working as boiler kulli when he was not taken on duty.

The workman has deposed that he was employed as boiler kulli from the season 1970-71 and worked for all the succeeding seasons up to the season 78-79. The management did not issue any charge sheet nor paid any retrenchment compensation at the time of termination of his services. The workman has admitted in his cross examination that he was paid his salary fortnightly at the rate of Rs 8 per day. He was not paid any retaining allowance but he denied the suggestion being incorrect that he was called on work as and when need was felt.

The workman did not put any suggestion to the management witness that it was wrong to say so when he stated that the workman was not engaged for any particular job at the boiler as kulli but he was sent to various departments according to the work available. The workman has also not been able to prove nor touched the point while cross-examining the management witness that the seasonal workers were paid in the same manner as he was being paid his

Wages fortnightly and at the rate of Rs 8 per day. Though the workman has worked for almost two and a half continuous seasons but it has not been proved on the file that the workman was required to do a particular job during these seasons like the seasonal workers and he was paid his wages in that capacity. The workman is therefore not to be termed as a seasonal worker and according to the certified standing orders clause 'B' which deals with the classification of worker. The workman comes under the category of temporary workman employed to do the job of casual nature. Under sub clause 3 of clause 'L' of the standing orders a temporary/casual workman could be terminated without any notice at the end of the period for which he was engaged. The workman was engaged for the seasons 78-79 and just at the close of the season he was paid off as per the standing orders and the management was justified in doing so. The issue is accordingly decided in favour of the management and the workman is not entitled to any relief. The reference is answered and returned in these terms.

Dated the 29th June, 1981

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endst. No. 2100, dated the 3rd July, 1981

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the I. D. Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 9(1)81-8Lab/8002.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management M/s Sunrise Products, Bahadurgarh (Rohtak).

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT
HARYANA, ROHTAK

Reference No. 262 of 78

between

SHRI AKALU, WORKMAN AND THE MANAGEMENT OF M/S SUNRISE PRODUCTS,
BAHADURGARH (ROHTAK)

Present :

No one for the workman.

Shri M. M. Kaushal, for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,— vide his order No. ID/SPT/100-78/41187, dated 12th September, 1978, under section 10 (i) (c) of the I. D. Act, for adjudication of the dispute existing between Shri Akalu, workman and the management of M/s Sunrise Products, Bahadurgarh. The term of the reference was :—

“Whether the termination of services of Shri Akalu was justified and in order? If not, to what relief is he entitled?”

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance, filed their respective pleadings and issues were framed as under :—

1. Whether the reference is not maintainable in view of settlement between the parties as alleged in the preliminary objection?
2. Whether the workman submitting a request for relieving him voluntarily during the course of domestic enquiry? If so to what effect?
3. As per reference?

The workman was required to admit or deny the documents filed by the management but the workman did not appear for this purpose and the case had to be adjourned four times. At last on 13th March, 1980 neither the workman nor his authorised representative appeared and the workman was proceeded against *ex parte*. The management examined Shri Tadar Singh as their sole witness and closed their case. I heard the learned representative of the management and decide issues as under :—

Issue No. 1.—The management did not adduce any evidence on this issue the same is decided against the management.

Issue Nos. 2 & 3.—The management witness deposed that the workman was employed with the management on 8th October, 1977. He was issued chargesheet for remaining absent on 22nd April, 1978 and 23rd April, 1978. The workman demanded the Hindi translation of the chargesheet.—*vide* his letter dated 24th April, 1978 which was supplied to him but the workman did not submit his reply nor he returned to join his duties. Shri N. K. Goel was appointed Enquiry Officer. The witness had brought attendance register for the period January, 1977 to December, 1978. The workman was given sufficient opportunity by the Enquiry Officer but the workman did not take part in the proceedings. The Enquiry Officer ordered for *ex parte* proceeding and sent the intimation of the same to the workman and fixed the next date but the workman did not participate. The Enquiry Officer gave another opportunity to the workman but the workman did not turn up. At last on 6th September, 1978 the Enquiry Officer submitted his report. The workman was served with show cause notice. The workman then submitted his resignation which is Ex. M-1 and received his full and final payment.—*vide* Ex. M-2. The management had not terminated his service on 24th May, 1978 the alleged date of termination.

The statement of the management witness shall have to be relied upon when it has been made on oath and when the workman did not care to pursue his demand raised on the management leading to this reference. Relying on his statement I hold that the workman submitted Ex. M-1 to the management which is a request to accept his resignation and he has also taken his full and final payment.—*vide* Ex. M-2 of all his dues. These issues are accordingly decided in favour of the management. The workman is not entitled to any relief. The reference is answered and returned in these terms.

Dated the 29th June, 1981.

BANWAR LAL DALAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endst. No. 2098, dated the 3rd July, 1981

Forwarded (four copies) to the Secretary to Government of Haryana Labour and Employment Departments, Chandigarh, as required under section 17 of the Act.

BANWAR LAL DALAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 12th August, 1981

No. 9 (1)-81-8Lab/8325 —In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Everest Steel Fabricator, Tigaon Road, Ballabgarh.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 64 of 1979

between

SHRI MAHENDRA SHARMA WORKMAN AND THE MANAGEMENT OF M/S EVEREST
STEEL FABRICATOR, TIGAON ROAD, BALLABGARH

Present:

Shri Darshan Singh, for the workman.
Shri R. C. Sharma, for the management.

AWARD

This reference No. 66 of 1979 has been referred to this court by the Hon'ble Governor of Haryana, — vide his order No. D-100/7952356, dated 31st December 1979 under section 10 (i) (c) of the Industrial disputes Act 1947 for adjudication of the dispute existing between Shri Mahendra Sharma workman and the respondent management of M/s Everest Steel Fabricator, Tigaon Road, Ballabgarh. The term of the reference was: —

Whether the termination of services of Shri Mahendra Sharma was justified and in order ? If not, to what relief is he entitled?

After receiving this reference the notices were given to the parties. The parties came present and filed their pleadings. On the pleadings of the parties the following issues were framed on 12th February 1980 : —

Whether the termination of service of the workman is justified and in order ? If not, to what relief he is entitled.

The workman's case is that he joined the service of the respondent management since 6th October, 1978 and the respondent illegally terminated his service on 17th September, 1979. He demanded his re-instatement of service with full back wages and continuity of service. He is drawing Rs. 250 p.m. at the time of his termination from the service.

In the written statement the respondent management denied the claim of the workman on the plea that the workman was on probation from 10th September, 1979 and terminated on 17th February, 1979 due to unsatisfactory work of the workman. The management produced Exhibit M-1 application of the workman in which it is mentioned that the workman is appointed on probation for six months as helper, on which the applicant has signed at point A and B. They also produced Exhibit M-2 a termination letter of the workman dated 10th September, 1979 by which the services of the workman was terminated and produce one witness Shri B. M. Mittal as MW-1 and closed their case. My findings as issue No. 1 is as under : —

Issue No. 1.

In the present case the management close their evidence on 12th May, 1980 and the case fixed for evidence of the workman on 11th June, 1980. After that the case adjourned for one protest or the other upto 27th April, 1981 and on that date the court ordered to close the evidence of the workman as the workman's representative failed to produce even a single witness in the case. He produced no document in support of his case. The workman's representative took adjournments in this case and after this all the case was closed on 27th April, 1981, after lapse of nearly one year. The workman failed to appear in the court and give his evidence. There is no evidence of workman on the file. This means that the workman has no dispute with the respondent management. So this issue is decided in favour of the respondent management against the workman.

When issue No. 1 is decided in favour of the management then no relief is ordered for the workman. No order as to costs. They may be read in answer of his reference.

HARI SINGH KAUSHIK,

Dated the 10th July, 1981

Presiding Officer,
Labour Court Haryana,
Faridabad.

Endst. No. 2164, dated 15th July, 1981

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.